

REMARKS

Upon entry of the present amendment, claim 3 will have been written into independent form by including the limitations of claim 3 into claim 1. Further, claim 4, will have been written into independent form. As a result of such amendments, claim 3 will have been canceled. Also, claim 9 will have been amended to incorporate the limitations of claim 3, and minor amendments for the sake of clarity will have been made to claims 1-2 and 5-10. Additionally, newly submitted claims 11-14, which recite the subject matter of claims 5 and 7, will have been added for consideration by the Examiner.

Initially, Applicants would like to thank the Examiner for attaching the Notice of References Cited and PTO-1449 form, the form having been appropriately initialed by the Examiner to indicate consideration of the cited documents. Further, Applicants would like to thank the Examiner for his indication that certified copies of the priority documents have been received.

In the outstanding Official Action, the Examiner rejected claims 1-10 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of SHIMA et al. (U.S. Patent No. 6,702,216) in view of SATOH et al. (U.S. Patent No. U.S. Patent Application Publication No. 2004/0031871). Further, the Examiner rejected claims 1-2 and 5-10 under 35 U.S.C. § 103(a) as being unpatentable over SHIMA et al. in view of SATOH et al.

With respect to the Examiner's double patenting rejection, Applicants respectfully traverse the same. It appears that the Examiner has relied upon the disclosures of SHIMA et al. in view of SATOH et al. to support his double patenting rejection.

P25086.A03

However, Applicants note that MPEP § 806.01 requires a comparison of claimed subject matter with respect to a double patenting rejection, by providing that “In passing upon questions of double patenting and restriction, it is the claimed subject matter that is considered and such claimed subject matter must be compared in order to determine the question of distinctness or independence.”

Mindful of MPEP § 806.01, Applicants submit that currently recited claims 1 and 4 of the present application each claim a door member for a tape cartridge, whereas SHIMA et al. and SATOH et al. each claim a tape cartridge. Further, additional features recited in claims 1 and 4 are not recited in the claims of SHIMA et al. nor SATOH et al. With respect to claim 9 of the present application, Applicants note that claim 9 is directed to a tape cartridge. Notwithstanding, Applicants submit that at least several features in claim 9 of the present application are not found in the claims of SHIMA et al. nor SATOH et al. For instance, neither SHIMA et al. nor SATOH et al. claim an upper casing and a lower casing, a spring-mounting portion extending from a door body and having one end face having an insertion hole, and cutouts being alternately provided in one surface-side wall and another surface-side wall.

Thus, Applicants respectfully request the Examiner to reconsider and withdraw the double patenting rejection in the present application.

Yet additionally, the Examiner has set forth no motivation for the proposed combination. The Examiner further failed to provide any evidentiary basis for the asserted conclusion of obviousness.

P25086.A03

The Examiner also indicated in the outstanding Official Action that claims 3 and 4 are objected to, but would be allowable if rewritten into independent form including all of the limitations of the base claim and any intervening claims.

Accordingly, Applicants have written claim 3 into independent form by including the limitations of claim 3 in claim 1. Further, Applicants have written claim 4 into independent form. Additionally, Applicants have amended claim 9 to include the limitations of claim 3, which the Examiner indicated in the outstanding Official Action as containing allowable subject matter. As a result of the aforementioned amendments, Applicants have canceled claim 3. Additionally, newly submitted claims 11-14, which recite the subject matter of claims 5 and 7, have been added.

Applicants now submit that all of the pending claims in the present application should be considered allowable over SHIMA et al. Further, Applicants submit that SATOH et al. does not overcome the deficiencies of SHIMA et al.

Additionally, Applicants have made certain cosmetic changes to the claims for the sake of clarity. Further, Applicants note that they have not acquiesced in the propriety of the Examiner's rejections, but have amended the claims to incorporate features of claims 3 and 4 solely to expedite prosecution.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections of the claims, as well as an indication of the allowability of all of the claims in the present application. Such action is respectfully requested and is now believe to be appropriate and proper.

SUMMARY AND CONCLUSION

Applicants believe that the present application is in condition for allowance, and respectfully request an indication to that effect. Accordingly, reconsideration of the outstanding Official Action and allowance of the present application and all the recited claims therein are respectfully requested and now believed to be appropriate.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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